

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

**MCGILL PARFAIT**

*Plaintiff,*

**vs.**

**APACHE CORPORATION,**

*Defendant.*

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**CIVIL ACTION NO. 3:14-CV-00213**

**JURY DEMANDED**

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**DEFENDANT’S S&S CONSULTING GROUP, LLC’S MOTION FOR LEAVE TO  
FILE CROSS-CLAIM AGAINST APACHE CORPORATION**

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TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Defendant S&S Consulting Group, LLC and files this Motion for Leave to File a Cross-Claim Against Apache Corporation, and in support thereof would show the Court the following:

**I.**  
**BACKGROUND**

1. Plaintiff brought suit against Defendant Apache Corporation. Plaintiff amended his pleadings and on or about January 9, 2015, amended his pleadings to include Defendant S&S Consulting Group, LLC. On April 23, 2015, S&S Consulting filed its answer to the lawsuit.

2. On August 27, 2015, and again on October 28, 2015, S&S Consulting tendered a request for defense and indemnity to Defendant Apache Corporation pursuant

to a binding Master Service Agreement between the parties in effect on the date Plaintiff was allegedly injured.

3. To date, Apache has failed to meet its contractual obligations pursuant to the MSA. As such, it has become necessary for S&S Consulting to file a Cross-Claim seeking enforcement of the contractual obligations between S&S Consulting and Apache based on the claims alleged by Plaintiff.

## **II.**

### **ARGUMENT AND AUTHORITIES**

4. S&S Consulting's cross-claim is appropriate under Fed. R. Civ. P. 13 (g) as the "claim arises out the transaction or occurrence that is the subject matter of the original action." Further, S&S Consulting alleges Apache is liable to S&S for all or part of the claim asserted by Plaintiff, and therefore is also appropriate. *Id.*

5. The policy of Fed. R. Civ. P. 15(a) is to permit the liberal amendment of pleadings. *Dussouy v. Gulf Coast Investment Corp.*, 660 F.2d 594, 597 (5th Cir.1981). S&S Consulting, in good faith, provided written notice requesting Apache honor its contractual obligations, which it has declined to do. By failing to do so, S&S Consulting is now forced to file this cross claim seeking enforcement.

6. Should the Court permit this cross-claim, no party will not be prejudiced because there is no undue delay and it will not change the course of the litigation.

7. A copy of the proposed cross-claim is attached to this Motion as Exhibit A.

**III.**  
**PRAYER**

8. WHEREFORE, PREMISES CONSIDERED, Defendant, S&S Consulting Group, LLC, hereby respectfully moves the Court for leave to file its cross-claim against Apache Corporation based on its failure to fulfill its contractual obligations as they relate to Plaintiff's underlying claims.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, LLP

/s/ William R. Moye

WILLIAM R. MOYE

*Attorney-in-Charge*

Tex. Bar No. 24027553

S.D. Tex. No. 34007

One Riverway, Suite 1400

Houston, TX 77056

(713) 403-8210; Facsimile: (713) 403-8299

[wmoye@thompsoncoe.com](mailto:wmoye@thompsoncoe.com)

*Attorney for Defendant S&S Consulting, LLC*

OF COUNSEL:

MOLLY L. PELA

Tex. Bar No. 24046606

S.D. Tex. No. 1115529

THOMPSON, COE, COUSINS & IRONS, LLP

One Riverway, Suite 1400

Houston, TX 77056

(713) 403-8210; Facsimile: (713) 403-8299

[mpela@thompsoncoe.com](mailto:mpela@thompsoncoe.com)

**CERTIFICATE OF CONFERENCE**

I HEREBY CERTIFY on November 25, 2015, I conferred with counsel for Apache Corporation, and she is opposed to this Motion.

/s/ Molly L. Pela  
Molly L. Pela

**CERTIFICATE OF SERVICE**

I certify that on the 30th day of November, 2015, a true and correct copy of the foregoing was served via the Court's ECF system upon the following counsel of record:

**Via E-File**

Jerry C. von Sternberg  
Spagnoletti & Co.  
401 Louisiana Street, 8th Floor  
Houston, Texas 77002  
***Attorneys for Plaintiff***

**Via E-File**

Bradley L. DeLuca  
Brigid D. Ashcraft  
Adam R. Diamond  
Johnson DeLuca Kurisky & Gould, P.C.  
4 Houston Center  
1221 Lamar, Suite 1000  
Houston, Texas 77010  
**Attorneys for Defendant, Wood Group  
PSN, Inc.**

**Via E-File**

Kent M. Adams  
Sarah R. Smith  
Lewis Brisbois Bisgaard & Smith, LLP  
Weslayan Tower, Suite 1400  
24 Greenway Plaza  
Houston, Texas 77046  
**Attorneys for Defendant, Apache  
Corporation**

/s/ Molly L. Pela  
Molly L. Pela